

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby amends Chapter 40, “Determination of Net Income,” and Chapter 86, “Inheritance Tax,” Iowa Administrative Code.

The Iowa General Assembly recently enacted 2015 Iowa Acts, chapter 137, which, in part, created the Iowa ABLE savings plan trust. The Iowa ABLE savings plan trust allows individuals to contribute funds to qualified ABLE accounts on behalf of eligible individuals with disabilities. Funds in the account earn interest, and the beneficiaries of the accounts can use the funds to pay for future disability-related expenses. Contributing funds to the account, withdrawing funds from the account, and interest accrued on the account all have possible Iowa income tax consequences for either the person contributing or the designated beneficiary. The Department adopts new rule 701—40.81(422) to administer those income tax consequences.

2015 Iowa Acts, chapter 137, also provides that a decedent’s interest in an ABLE account is not subject to Iowa inheritance tax. The Department adopts new subrule 86.5(16), which is added to rule 701—86.5(450) that describes how to calculate the gross estate for Iowa inheritance tax purposes, to specify that the decedent’s interest in a qualified ABLE account is not included in the gross estate.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2617C** on July 6, 2016. No public comments were received in relation to this rule making. These amendments are identical to those published under Notice of Intended Action.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

The Department of Revenue adopted these amendments on August 10, 2016.

After analysis and review of this rule making, the Department finds that these amendments are not likely to have a significant impact on jobs.

These amendments are intended to implement Iowa Code chapter 12I and sections 422.7(34), 422.7(34A), and 450.4(9) as amended by 2015 Iowa Acts, chapter 137.

These amendments will become effective October 5, 2016.

The following amendments are adopted.

ITEM 1. Adopt the following **new** rule 701—40.81:

701—40.81(422) Iowa ABLE savings plan trust. The Iowa ABLE savings plan trust was created so that individuals can contribute funds on behalf of designated beneficiaries into accounts administered by the treasurer of state. The funds contributed to the trust may be used to cover future disability-related expenses of the designated beneficiary. The funds contributed to the trust are intended to supplement, but not supplant, other benefits provided to the designated beneficiary by various federal, state, and private sources. The Iowa ABLE savings plan program is administered by the treasurer of state under the terms of Iowa Code chapter 12I. The following subrules provide details about how an individual’s net income is affected by contributions to a beneficiary’s account, by interest and any other earnings on a beneficiary’s account, and by distributions of contributions which were previously deducted.

40.81(1) Definitions.

“*Account owner*” means an individual who enters into a participation agreement under Iowa Code chapter 12I for the payment of qualified disability expenses on behalf of a designated beneficiary.

“*Designated beneficiary*” means an individual who is a resident of this state or a resident of a contracting state and who meets the definition of “eligible individual” found in Section 529A of the Internal Revenue Code.

“*Iowa ABLE savings plan trust*” means a qualified ABLE program administered by the Iowa treasurer of state under the terms of Iowa Code chapter 12I.

“*Other qualified ABLÉ program*” refers to any qualified ABLÉ program administered by another state with which the Iowa treasurer of state has entered into an agreement under the terms of Iowa Code section 12I.10 (see subrule 40.81(2) below).

“*Qualified ABLÉ program*” means the same as defined in Section 529A of the Internal Revenue Code.

“*Qualified disability expenses*” means the same as defined in Section 529A of the Internal Revenue Code.

40.81(2) *Contracting with other states.* Iowa Code section 12I.10 allows the treasurer of state to choose to defer implementation of Iowa’s own qualified ABLÉ program and instead enter into an agreement with another state that already has a qualified ABLÉ program, to provide Iowa residents access to that state’s qualified ABLÉ program, provided that the other state’s program meets the qualifications set out in Iowa Code section 12I.10(1).

40.81(3) *Subtraction from net income for contributions made to the Iowa ABLÉ savings plan trust or other qualified ABLÉ program.* For tax years beginning on or after January 1, 2016, individuals can subtract from their Iowa net income the amount contributed to the Iowa ABLÉ savings plan trust or other qualified ABLÉ program on behalf of a designated beneficiary during the tax year, subject to the maximum contribution level for that year.

40.81(4) *Exclusion of interest and earnings on beneficiary accounts in the Iowa ABLÉ savings plan trust or other qualified ABLÉ program.* For tax years beginning on or after January 1, 2016, to the extent that interest or other earnings accrue on an account in the Iowa ABLÉ savings plan trust or other qualified ABLÉ program (if the account owner is an Iowa resident), the interest or other earnings are excluded for purposes of computing net income on the designated beneficiary’s Iowa individual income tax return.

40.81(5) *Addition to net income of amounts distributed to the participant from the Iowa ABLÉ savings plan trust or other qualified ABLÉ program that had previously been deducted.*

a. For tax years beginning on or after January 1, 2016, if a taxpayer, as an account owner, cancels the account owner’s account in the Iowa ABLÉ savings plan trust or other qualified ABLÉ program and receives a distribution of the funds in the account, the amount of the distribution shall be included in net income on the account owner’s Iowa individual income tax return to the extent that contributions to the account had been deducted on prior state individual income tax returns of the account owner or any other person as a contribution to the Iowa ABLÉ savings plan trust or other qualified ABLÉ program.

b. For tax years beginning on or after January 1, 2016, if a taxpayer makes a withdrawal of funds previously deducted by the taxpayer or any other person from the Iowa ABLÉ savings plan trust or other qualified ABLÉ program for purposes other than the payment of qualified disability expenses, the amount of the withdrawal shall be included in net income on the taxpayer’s Iowa individual income tax return to the extent that contributions to the account had been deducted on prior state individual income tax returns of the taxpayer or any other person.

40.81(6) *Maximum contribution level.* The amount of the deduction available for an individual taxpayer each year for contributions on behalf of any one designated beneficiary to the Iowa ABLÉ savings plan trust or other qualified ABLÉ program may not exceed the maximum contribution level for that year. The maximum contribution level is set by the treasurer of state. The maximum contribution level is indexed yearly for inflation pursuant to Iowa Code section 12D.3(1)“a.”

This rule is intended to implement Iowa Code section 422.7 as amended by 2015 Iowa Acts, chapter 137.

ITEM 2. Adopt the following **new** subrule 86.5(16):

86.5(16) *Qualified ABLÉ plans exempt.* Effective for estates of decedents dying on or after January 1, 2016, the value of the decedent’s interest in the Iowa ABLÉ savings plan trust is not subject to Iowa inheritance tax and therefore is not includable in the decedent’s gross estate for tax purposes. The value of the decedent’s interest in an ABLÉ savings program administered by another state with which the Iowa treasurer of state has entered into an agreement allowing Iowa residents to participate in the other state’s qualified ABLÉ program under the terms of Iowa Code section 12I.10 is also not subject to Iowa

inheritance tax if the decedent is an Iowa resident. For more information on qualified plans administered by other states, see Iowa Code section 12I.10 and rule 701—40.81(422).

ITEM 3. Amend rule **701—86.5(450)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections ~~422.7(4)~~ 422.7, 450.2, 450.3, 450.4(5), 450.8, 450.12, 450.37, 450.91, 633.699, and 633.703A and Iowa Code Supplement section 450.4 as amended by ~~2008 Iowa Acts, House File 2673, section 2~~ 2015 Iowa Acts, chapter 137.

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